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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/430,756 10/29/99 ROBERTS T 99-20

QM22/1025

JOHN B DICKMAN III
SUITE 1203 CRYSTAL PLAZA BUILDING 1
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202-0286

EXAMINER

ARYANPOUR, M

ART UNIT

PAPER NUMBER

3711

DATE MAILED:

10/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/430,756

Applicant(s)
T. Sanford Roberts

Examiner
Mitra Aryanpour

Group Art Unit
3711



☒ Responsive to communication(s) filed on Sep 29, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-8 is/are pending in the application

Of the above, claim(s) 6 is/are withdrawn from consideration

☐ Claim(s) is/are allowed.

☒ Claim(s) 1-5, 7, and 8 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claims are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number)

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Applicant's election of **Invention I** in Paper No. 3 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 6 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 3.

The Specification, Claims and Abstract submitted in Paper No. 3 has been approved by the Examiner and has been entered.

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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1-5

3. Claims ~~2~~ 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the cross member" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claims 7 and 8 recite the limitation in the preamble (line 1) "A trajectory training aid as in claim 1". This preamble is inconsistent with the preamble of claims 1 and 4.

Regarding claims ^{1-5, 7 and 8} ~~1, 4-8~~, the phrase "hoop-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "hoop-like"), thereby rendering the scope of the claim(s) unascertainable.

Claim 7, line 3, "or otherwise" is vague and indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by **Ferrari (5,833,556)**.

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Ferrari discloses a basketball shooting aid (10) for demonstrating the correct arc for a player's ball when shooting a basket comprising: a hoop means (16) of a size to allow a player to shoot a basketball, a vertical support (11) to support the hoop means at a height over the player's head (Figure 1), and a base means (34) for attaching the support means (11) in a vertical position, and where said base means (34) supports said vertical support means (11) and hoop means (16) extends beyond said base means to allow a player to stand under said hoop like means without being interfered with by said base means.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ferrari (5,833,556)** in view of **Barnes, Jr. (4,786,053)**.

In reference to claims 2-3, Ferrari does not show a base having a T-shape and a pair of cross-member and longer members interconnected.

Barnes, Jr. shows, by using tubing and connectors the support structure can be arranged in a plurality of different ways, depending on the applicability, particular reference is made to Figure

4.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the base means of Ferrari to include tubular members as it is suggested by Barnes, Jr. in order to make it more easily assembled and disassembled, and also to allow the base to be put together in more than one form. The particular shape/configuration is considered an obvious choice of design because using and arranging tubing is well known in the construction of support structures.

In reference to claim 4, Ferrari shows the hoop means (16) is adjustable (40 and 42) on said support means (11) to raise or lower the height of said shoot means.

Regarding claim 5, the size of the hoop means is an obvious design choice absent any criticality.

In reference to claim 8, Ferrari shows a training aid (10) in which the adjustability of said hoop means (¹⁶~~40~~) is also due to the telescoping adjustment of upper (12) and lower (32) pole members which comprise the support means, said upper pole member and said hoop means (16) being removably attached together.

Allowable Subject Matter

8. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

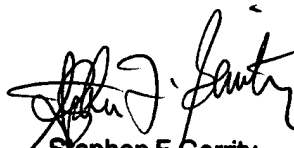
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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is (703) 308-3550. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Gerrity, can be reached on (703) 308-1279. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Stephen F. Gerrity
Primary Examiner

MA

October 12, 2000